

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	NO. 2:15CR90-PPS
)	
DAMIANE HARRIS,)	
)	
Defendant.)	

OPINION AND ORDER

On October 4, 2016, I sentenced Damiane Harris to 24 months’ imprisonment on the charge of interstate transportation of stolen property, which he had pled guilty to on July 5, 2016. [DE 33, 21.] Harris did not appeal the sentence, and has not previously challenged it in any way, but now has filed a motion asking me to amend the judgment *nunc pro tunc* to provide that the prison term should run concurrent with sentences later imposed in other cases that were pending against Harris at that time. [DE 36.]

Despite Harris’s suggestion that an agreement to concurrent sentences was part of the “plea deal” in this case [DE 36 at 2], the parties’ plea agreement [DE 19] makes no reference to concurrent sentences. And contrary to Harris’s assertions about what took place at the sentencing hearing [DE 36 at 2], there was no agreement by the government on the record to concurrent sentencing. Even more significantly, I reject Harris’s contention that during the sentencing hearing I “acknowledged and stated in open court that the (24) twenty four month sentence would be ran concurrent with any other pending case....” [DE 36 at 2.] The transcript of the sentencing hearing indicates that

defense counsel made a request that I impose the sentence in this case to run concurrent to any sentences yet to be imposed in two then-pending Illinois cases. [DE 37 at 19.] But I clearly stated on the record that I declined to make Harris's federal sentence concurrent, explaining that I would leave that determination up to the Illinois judge who might impose a sentence on Harris in the future. [DE 37 at 34-35.]

ACCORDINGLY:

Damiane Harris's Motion for Nunc Pro Tunc Amendment [DE 36] is DENIED.

SO ORDERED.

ENTERED: November 21, 2019.

/s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT